

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

ALLERGAN, INC. and ABBVIE INC.,)	
)	
Plaintiffs/)	
Counter-Defendants,)	
)	
v.)	C.A. No. 23-272 (JFM)
)	
MANKIND PHARMA LTD.,)	
)	
Defendant/)	
Counter-Plaintiff.)	

STIPULATION AND [PROPOSED] ORDER

The Court, upon the consent and request of Plaintiffs Allergan, Inc. and AbbVie Inc. (collectively, “Plaintiffs”) and Defendant Mankind Pharma Ltd. (“Mankind”), hereby acknowledges the following Stipulation and issues the following Order in the above-captioned action.

STIPULATION

1. This Court has subject matter jurisdiction over this patent infringement action (the “Action”) and personal jurisdiction over Plaintiffs and Mankind for purposes of the Action.
2. Venue is proper in this Court as to Plaintiffs and Mankind for the Action.
3. Plaintiffs have asserted claims against Mankind for infringement of U.S. Patent No. 7,581,504 (the “’504 Patent”) in connection with Mankind’s submission of Abbreviated New Drug Application (“ANDA”) 218196 directed to generic bimatoprost ophthalmic solution (0.01%) product to the U.S. Food and Drug Administration (“FDA”).
4. Mankind admits in this Action that the ’504 Patent is enforceable, valid, and one or more claims thereof would be infringed by the commercial manufacture, use, and/or sale

within the United States of the generic bimatoprost ophthalmic solution (0.01%) product that is the subject of Mankind's ANDA 218196.

5. Mankind admits that the submission of ANDA 218196 to the FDA containing a Paragraph IV certification for purposes of obtaining regulatory approval to engage in the commercial manufacture, use, and/or sale within the United States of generic bimatoprost ophthalmic solution (0.01%) was a technical act of infringement of the '504 Patent under 35 U.S.C. § 271(e)(2)(A).

6. The parties agree that all other claims, counterclaims, and defenses asserted against each other in Plaintiffs' and Mankind's pleadings in the Action, including the allegations and averments contained therein, should be dismissed, without prejudice.

7. Nothing herein prohibits Mankind from maintaining a Paragraph IV certification to the '504 Patent in Mankind's ANDA 218196 for the purposes of receiving or maintaining final approval of Mankind's ANDA 218196.

ORDER

Accordingly, pursuant to the above Stipulation, and upon the consent and request of Plaintiffs and Mankind, **IT IS HEREBY ORDERED, ADJUDGED AND DECREED THAT:**

1. The filing of ANDA 218196 was a technical act of infringement of the '504 Patent under 35 U.S.C. § 271(e)(2)(A).

2. All other claims, counterclaims, and defenses asserted by the parties against each other in Plaintiffs' and Mankind's pleadings in the Action, including the allegations and averments contained therein are hereby dismissed, without prejudice.

3. Mankind, its officers, agents, servants, employees, and attorneys, and all other persons in active concert or participation with any of them who receive actual notice of this

Order by personal service or otherwise, are hereby enjoined from manufacturing, using, offering to sell, or selling within the United States, or importing into the United States, the generic bimatoprost ophthalmic solution (0.01%) product described by ANDA 218196 during the life of the '504 Patent, including any extensions and pediatric exclusivities thereof, absent a license agreement or other authorization by Plaintiffs.

4. Plaintiffs and Mankind each expressly waive any right to appeal or otherwise move for relief from this Stipulation And Order.

5. This Court retains jurisdiction over Plaintiffs and Mankind for purposes of enforcing this Stipulation And Order.

6. This Stipulation And Order shall finally resolve the Action between the Parties.

7. This Stipulation And Order is without prejudice to any claim, defense, or counterclaim in any possible future action between Mankind and any of the Plaintiffs regarding the '504 Patent and a product other than generic bimatoprost ophthalmic solution (0.01%) product described by ANDA 218196.

8. The Clerk of the Court is directed to enter this Stipulation And Order forthwith in the Action.

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October 29, 2024

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SO ORDERED:

This ____ day of _____, 2024.

HONORABLE JOHN F. MURPHY,
UNITED STATES DISTRICT JUDGE